

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

99-CR-131-A(1)

MOHAMED KAID,

Defendant.

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**MEMORANDUM REGARDING THE ROLE-**  
**IN-THE-OFFENSE ADJUSTMENT**

THE UNITED STATES OF AMERICA, by its attorneys, Kathleen M. Mehltritt, Acting United States Attorney for the Western District of New York, and Anthony M. Bruce, Assistant United States Attorney, hereby files its Memorandum Regarding The Role-In-The-Offense Adjustment outlining the facts the Court should rely upon in determining that the defendant was an organizer and/or of a criminal activity that involved five (5) or more participants of was otherwise extensive. (Guidelines § 3B1.1(a)).

**BACKGROUND**

1. In the plea agreement, the government asserted that Guidelines § 3B1.1(a) applied to the offense of conviction and the defendant reserved his right to dispute this adjustment (See Plea Agreement at page 7), and the defendant has indeed disputed this adjustment.

**THE FACTS SUPPORTING THE ADJUSTMENT**

2. Attached as Exhibit A are pages 265 through 278 of Linda Mohawk's trial testimony as it relates to defendant Mohamed Kaid. This testimony demonstrates that the defendant was, first of all, one of Mohawk's largest customers and was thus a major co-conspirator, and further demonstrates that the defendant used a veritable stable of drivers (See Exhibit A at 275-76), where Mohawk names nine (9) drivers; 276, line 15 to 278, line 12, where Mohawk also names Abdul Albana and herself as two more of the defendant's drivers.) This testimony supports the adjustment under Guidelines § 3B1.1(a).

DATED: Buffalo, New York, October 27, 2005.

Respectfully submitted,

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U.S. Probation Officer

THE UNITED STATES DISTRICT COURT  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 27, 2005, I electronically filed the attached **Memorandum Regarding The Role-In-The-Offense Adjustment** with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

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Buffalo, New York 14202

United States Probation Department  
Attn: Michael Quarantillo  
United States Courthouse  
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Buffalo, New York 14202

s/LINDA F. SWIATEK

LINDA MOHAWK

1 us Mr. Kaid was smuggling cigarettes for about how  
2 long?

3 A. He started it early like -- like '95 until we  
4 finished.

5 Q. Till about '98?

6 A. Yes, around '98.

7 Q. So in that period of time, if I understand your  
8 testimony, Mr. Rmzy Abdullah drove for him at least  
9 once?

10 A. Yes.

11 Q. And over that period of time, based on your  
12 recall, can you tell us how many times Mr.  
13 Abdullah, approximately how many times Mr. Abdullah  
14 drove for Mr. Kaid? Mr. Ali Kaid.

15 A. Rmzy Abdullah didn't drive too often, just a  
16 couple times, like one or two times for him.

17 Q. In this period of time did you become  
18 acquainted with an individual by the name of  
19 Mohamed Kaid?

20 A. Yes, I did.

21 Q. And did there come a point in time when Mr.  
22 Kaid came to your business?

23 A. Yes.

24 Q. Do you have a specific recollection of that?

25 A. Yes, I do.

LINDA MOHAWK

1 Q. And first of all, can you tell us the door  
2 through which he came?

3 A. He came in the back door off of the back part  
4 of the store where it opened to the lawn.

5 Q. And do you recall him saying anything, or what  
6 he said once he came into the store?

7 A. Yes, he was --

8 Q. What did he say?

9 A. He said that his name was Jimmy, and I had  
10 asked him -- I had asked him first if I could help  
11 him. And he had asked one of the girls where I  
12 was, he asked for me specifically.

13 Q. Asked for Linda?

14 A. Yes. And he came over and he -- and I said may  
15 I help you, and he said yes, I'd like to buy  
16 cigarettes in volume.

17 Q. Did he have anything with him?

18 A. Yes, he did.

19 Q. What did he have?

20 A. He had a briefcase that was handcuffed to his  
21 wrist.

22 Q. And what did you say when he said he wanted to  
23 buy cigarettes in volume?

24 A. I told him that it was cash, cash only.

25 Q. And he said?

LINDA MOHAWK

1 A. I have cash.

2 Q. Did you go somewhere in the -- in Roseine's at  
3 that point in time?

4 A. Yes, we did.

5 Q. Where did you go?

6 A. We went to the upstairs office, where there  
7 was -- up to where there was stock and the other  
8 desks in the other part of the office was the big  
9 office.

10 Q. Who was present in the office?

11 A. Ali Kaid was there, Ali Ohmar, Ali Alajji,  
12 there was a lot of drivers there with them.

13 Q. But who was in the office, that's my question.

14 A. Rmzy Abdullah, Hamood Abdullah, they were all  
15 riding together.

16 Q. In the office?

17 A. They were in the office along with Joanne  
18 Waterman, Kara Johns, Cindy Jamerson, Donna  
19 Jamerson.

20 Q. They were all in this office?

21 A. It's a big office.

22 Q. All right. And that's the office which you  
23 went into with Mr. Kaid?

24 A. Yes.

25 Q. And what happened next?

LINDA MOHAWK

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1 A. He unhand -- undid the handcuff from the  
2 briefcase and he opened it up and spun it around  
3 and showed me the cash.

4 Q. And did you ultimately find out how much cash  
5 he had in that briefcase?

6 A. Yes.

7 Q. How much was that?

8 A. Sixty-eight thousand, I believe it was. I'm  
9 positive that's what it was.

10 Q. But would it be fair to say that when he opened  
11 the briefcase, the briefcase was full of cash?

12 A. Yes, it was.

13 Q. And the people that were in the office, the  
14 number of individuals that you just described, were  
15 they in a position where they could observe the  
16 cash as well?

17 A. Yes.

18 Q. Did he tell you about any form of  
19 transportation that he had coming?

20 A. No, he didn't.

21 Q. Did he say anything about needing help to load?

22 A. Yes, he did.

23 Q. Did he say why?

24 A. Because he had been shot and he was -- and his  
25 back was bad. He told me his back was bad, he

LINDA MOHAWK

1     couldn't really --

2     Q.   You say that Ali Ohmar and Ali Kaid were there?

3     A.   Yes, they were.

4     Q.   Had they given you an order at that point in  
5     time?

6     A.   Yes, they did.

7     Q.   Had they paid for it?

8     A.   No.

9     Q.   Did they get their order?

10    A.   No, they didn't.

11    Q.   Why was that?

12    A.   Because Mohamed Kaid bought everything in the  
13    stock.

14    Q.   All -- what was the figure used, sixty?

15    A.   Sixty-eight thousand dollars he spent.

16    Q.   All sixty-eight thousand dollars was paid over  
17    and cigarettes were turned over at that point?

18    A.   Yes.

19    Q.   And Mr. Kaid and Mr. Ohmar, at that point in  
20    time there were no cigarettes left to fill their  
21    order?

22    A.   Exactly.

23    Q.   And what, if anything, did you say to them  
24    about their orders?

25    A.   I told them that there was no credit, that they



LINDA MOHAWK

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1 had to bring cash if they wanted cigarettes.

2 Q. Did they give you an order?

3 A. They gave me one later on. It was more evening  
4 time.

5 Q. But that same day?

6 A. The same day Ali Kaid came in with an order.

7 Q. Now, after that point in time did Jimmy --

8 THE COURT: Are we in 1995? Is that -- are we  
9 in 1995 now?

10 A. We're in '95.

11 THE COURT: Is this after -- I remember there  
12 was a hot day in August when you met Ali Kaid?

13 A. Um-hum.

14 THE COURT: Is this after that?

15 A. Yes, I met Ali before I met Jimmy.

16 THE COURT: You met him in August, you said.  
17 You said it was a hot August day.

18 A. It was hot, August, when I met Ali?

19 THE COURT: Right.

20 A. Yes.

21 THE COURT: Now this other --

22 A. Mohamed Kaid came in shortly after that.

23 THE COURT: In the month of August, September?

24 A. It was still hot out.

25 THE COURT: Okay. So it was still summer or

LINDA MOHAWK

1 late summer.

2 A. Yes.

3 THE COURT: Before October?

4 A. Yes.

5 THE COURT: Okay.

6 BY MR. BRUCE:

7 Q. I'd like to show you -- let me help you out  
8 with the dates a little bit. Government Exhibit  
9 40-B. The first page, can you see a red J at the  
10 top of 40-B?

11 A. Yes, I do.

12 Q. And who do you recognize, or does that red J  
13 have any significance for you?

14 A. Yeah, that means Jimmy.

15 Q. Jimmy being Mohamed Kaid?

16 A. Yes.

17 Q. Now, you've been talking about August of 1995.  
18 Would this be an order of his?

19 A. Yes.

20 Q. Now I'd like you to look at the date on this,  
21 2-20 of '95. Do you see that?

22 MR. BRUCE: Perhaps you'd blow that up, Ms.  
23 Prawel?

24 A. Yes, I see it.

25 Q. Now, based on that, can you tell us again, or

## LINDA MOHAWK

1 would you go back and tell us when this first  
2 meeting, first of all with Ali Kaid, occurred, and  
3 the first meeting with Jimmy Kaid or Mohamed Kaid?

4 A. That was -- it was hot. I know it was hot that  
5 year.

6 Q. Well --

7 A. It was in late August.

8 Q. Here we have an order by Jimmy in February of  
9 1995, which is before August of 1995.

10 A. Jimmy didn't place all his orders. He came --  
11 when he got the big large cigarettes, I already had  
12 them in stock.

13 Q. What I'm saying is, do you see the date of that  
14 order?

15 A. Yes, I do.

16 Q. That's February of 1995.

17 A. Yes.

18 Q. Which is before August of 1995.

19 A. Yes.

20 Q. So based on that, could it be that you're  
21 mistaken as to the dates?

22 A. Yes, that could be.

23 Q. All right. So now looking at that order,  
24 February of 1995, can you tell us when, first of  
25 all, Ali Kaid came into your business?

LINDA MOHAWK

1 A. Would have been in '94.

2 Q. All right. And can you tell us when Jimmy came  
3 into your business with this sixty-eight thousand  
4 dollars? Was it August of '94 or '95?

5 A. Would have been '94.

6 Q. All right. So you were associated with Ali  
7 Kaid in '94, prior to Jimmy coming in, in '94? Do  
8 you follow my question?

9 A. Yes. Yes.

10 Q. Ali -- was it Ali Kaid placing orders with you  
11 in 1994 before Mohamed Kaid came in and started  
12 placing --

13 A. Yes, he was.

14 Q. All right. And you told us, I think, that the  
15 orders -- I'm sorry, that the sixty-eight thousand  
16 dollar order came on a hot day.

17 A. Yes, it was.

18 Q. So based on this order of February of 1995, can  
19 you tell us now when approximately Jimmy Kaid or  
20 Mohamed Kaid came in and placed that sixty-eight  
21 thousand dollar order?

22 A. He didn't place the order. He came in with the  
23 money and he bought what I had in stock.

24 Q. All right. When did he do that?

25 A. He did that -- it would have been in '94 when

LINDA MOHAWK

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1 it was real hot, August, September.

2 Q. Somewhere in there?

3 A. Somewhere in that area.

4 Q. And you said, I think, that because of that  
5 taking of all that stock, Ali Ohmar and Ali Kaid's  
6 cigarettes intended for them were cleaned out.

7 A. Yes.

8 Q. And they had to place an order that same day?

9 A. Yes, they did.

10 Q. Again, August or September of 1994?

11 A. Yes.

12 Q. All right. After that sixty-eight thousand  
13 dollar order, did Mohamed Kaid begin ordering from  
14 you on a regular basis?

15 A. Yes, he did.

16 Q. How often?

17 A. He ordered every day.

18 Q. And do you recall the volume of his orders?

19 A. His orders would be like twenty-three hundred.  
20 They got bigger as it went. He started small and  
21 got progressively bigger.

22 Q. You used the figure twenty-three hundred; are  
23 you referring here to dollars?

24 A. Cartons.

25 Q. Pardon me?

LINDA MOHAWK

1 A. Cartons.

2 Q. That's what I'm trying to get at. And were his  
3 orders separated out?

4 A. Yes.

5 Q. Into what, Jimmy one, two, three and so forth?

6 A. Yes, they were.

7 Q. And was --

8 A. No, wasn't just Jimmy.

9 Q. Pardon me?

10 A. Wasn't just Jimmy.

11 Q. And when Jimmy placed his orders, was he using  
12 people as drivers? Runners?

13 A. Yes. He had his own drivers.

14 Q. And do you recall any of Jimmy's drivers?

15 A. Yes.

16 Q. Why don't you tell the jury about those.

17 A. He had -- most of his drivers were Arab, and  
18 they were like -- I can't remember his name.

19 Little Shubwa, he used to drive; Mohamed Red Fanny;

20 Ali Abuhamra, Junior; Mohamed Odefa; Alshubili, I

21 don't know what Alshubili's first name was; and he

22 also used Rachel and Colleen, Rachel Gloss and

23 Colleen, he used them. Let's see, Ali Al-Fiasaly;

24 there was another Rmzy, but it wasn't Rmzy

25 Abdullah. He used a guy named Tony also, but it

LINDA MOHAWK

1 wasn't the same Tony either.

2 Q. Not the same Tony that was associated with  
3 Aref?

4 A. No.

5 Q. Okay.

6 A. I don't remember any more drivers. I know  
7 there's a lot more drivers, he changed quite a bit.

8 Q. Do you recall any business relationships  
9 between Mr. Mohamed Kaid and a man by the name of  
10 Abdul Akawi?

11 A. Yeah, Abdul Akawi.

12 Q. What was the relationship between Mr. Kaid and  
13 Mr. Akawi?

14 A. Akawi used to drive for him.

15 Q. Do you recall any kind of a business  
16 relationship between Mr. Kaid, Mohamed Kaid --

17 A. Yes.

18 Q. -- and Abdul Albana?

19 A. Yes.

20 Q. What was that?

21 A. That was all cigarettes.

22 Q. And what was the relationship, as you observed  
23 it, between Albana and Kaid? Mohamed Kaid.

24 A. He just drove for him.

25 Q. Who drove for whom?

LINDA MOHAWK

1 A. Albana drove for Mohamed Kaid.

2 Q. Now, were there times when Mr. Kaid ordered  
3 from you where you actually made deliveries for  
4 him?

5 A. Yes.

6 Q. Tell us about that.

7 A. I drove for Jimmy to Michigan and I also  
8 delivered to him in Buffalo.

9 Q. Delivered what?

10 A. Cigarettes to him in Buffalo also.

11 Q. Where?

12 A. To Gas Mart.

13 Q. Anywhere else?

14 A. No.

15 Q. Now, did you come to understand there was a  
16 business relationship between Mr. Kaid and -- Mr.  
17 Jimmy Kaid and Mohamed Abuhamra?

18 A. Yes.

19 Q. And what did you understand the relationship to  
20 be and from whom?

21 A. I understood they were partners.

22 Q. Did you get that first of all from Mr. Mohamed  
23 Kaid?

24 A. Yes.

25 Q. What, if anything, did he tell you, or what



LINDA MOHAWK

1 happened to tell you that they were partners?

2 A. Well, I was looking at his order, and it had  
3 his name on it, and it had the order broke up in  
4 between one, two, three, and on the -- usually on  
5 the second order it would say Mike. And I asked  
6 him, who's Mike? And he said it was -- it was Mike  
7 from Elmwood.

8 Q. And did you ultimately meet Mike from Elmwood?

9 A. Yes, I did.

10 Q. And by the way, did you ever have to come to  
11 Buffalo to collect for cigarettes for Mohamed Kaid?

12 A. Yes, I did.

13 Q. And did you ever have to come to Buffalo to  
14 collect for cigarettes from Mohamed Abuhamra?

15 A. Yes, I did.

16 Q. Where did you go to collect for cigarettes for  
17 Mohamed Abuhamra?

18 A. From the Elmwood store.

19 Q. And that's right over here on Elmwood, a few  
20 blocks away from here?

21 A. Yes, it is.

22 Q. And approximately how many times did you  
23 collect for cigarettes from Mohamed Abuhamra?

24 A. Couple times a week.

25 Q. Here in Buffalo?